

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:32
To: **(b) (6)** CIV OPNAV, DNS-3
Subject: FW: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers
Attachments: clip_image002.png; REPLYT~4.PDF
Signed By: **(b) (6)** @navy.mil

-----Original Message-----

From: **(b) (6)** @aol.com [mailto:**(b) (6)** @aol.com]
Sent: Saturday, April 18, 2015 8:31 AM
To: **(b) (6)** @mail.mil; **(b) (6)** @mail.mil
Cc: OSD.FOIAPolicy@mail.mil; Garcia, Della ; Muck, Steve CIV SECNAV, DON CIO; **(b) (6)** ;
BUMED.FOIA@med.navy.mil; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov; Julka,
Christopher A CIV DON, CIO; ogis@nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @tma.osd.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; DON FOIA Public Liaison;
FOIARequests@tma.osd.mil; **(b) (6)** @mail.mil; Patterson, Robin L CIV OPNAV, DNS-36; DONFOIA-PA;
(b) (6) @mail.mil; Lattin, Grant E CIV OJAG, CODE 14; **(b) (6)** @mail.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil;
PrivacyMail@mail.mil; **(b) (6)** @aol.com
Subject: Re: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Robert Hammond

(b) (6)

(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office Walter Reed National Military Medical Center
(WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern

Daylight Time with attachments

(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern

Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my February 26, 2013 FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on March 13, 2015 (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on 16AUG2014. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until March 13, 2015.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports.

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite (b) (6)

Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office

Office of the Secretary of Defense, Administration

1950 Defense Pentagon

Washington DC 20301 - 1950

OSD.FOIAPolicy@mail.mil,

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(b) (6)@navy.mil,

donfoia-pa@navy.mil,

(b) (6)@mail.mil,

(b) (6)@navy <mailto:(b) (6)@navy> .mil,

(b) (6)@mail.mil <mailto:(b) (6)@mail.mil> ,

(b) (6)@mail.mil <mailto:(b) (6)@mail.mil> ,

(b) (6)@mail.mil <mailto:(b) (6)@mail.mil>

osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil <mailto:osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil> ,
PrivacyMail@mail.mil <mailto:PrivacyMail@mail.mil>

In a message dated 3/22/2015 5:33:25 A.M. Eastern Daylight Time, (b) (6)@aoi.com writes:

Robert Hammond

(b) (6)

(b) (6)

(b) (6)@aol.com

March 21, 2015

Joe Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6)@mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern Daylight Time with attachments

(2) (b) (6)@mail.mil <mailto:(2)%20(b) (6)@mail.mil> email sent: 3/12/2015 1:49:13 P.M. Eastern Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

Dear Mr. Davidge,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office to express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011 and to request specific actions. Enclosures (1), (2) and (3) apply. In documenting these concerns, it is my hope that specific actions related to this request will be completed and that improvements in FOIA and PA processing will be implemented at all levels going forward.

First, I am concerned that this FOIA request be accurately reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request of February 26, 2013. The record released in Attachment (a) of Enclosure (1) identifying the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. This response is actually to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then again on March 26, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see Attachment C of my appeal of that FOIA request at Enclosure (3).

ACTIONS REQUESTED. Please:

- enter this request for the critical low value of sodium stored in WRNMMC computers into the DHA central FOIA case tracking database with an effective date of February 26, 2013, when it was submitted;
- preserve all records responsive to or potentially responsive to this request that existed at the time of this request until final action has been taken and the statutory time for judicial review has passed or in accordance with a NARA approved record schedule, if longer;
- preserve all correspondence, including this letter, emails and other communications regarding this request in the FOIA case file and in the DHA FOIA case tracking database;
- preserve all records of searches that you have conducted and those conducted in the future;
- recover and preserve any records that have been archived;
- provide a final decision letter for this request that includes the responsive records without redaction.

Second, I am concerned that WRNMMC - with intent - withheld the record at Enclosure (1) and denied its existence or ability to produce the record for two years, up until the day before it was released. All case records and correspondence affirm this. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to appropriately constructed searches by the FOIA office and as approved for release by management following legal review.

The assertion maintained by WRNMMC until 03/12/2015 1:49:13 P.M. Eastern Daylight Time that specific pages of my personal medical records related to a separate FOIA request - that do not even contain the critical value of sodium - constituted a reasonable search or that I sought those records to document the critical low value of sodium in WRNMMC computer systems is not credible.

The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, the WRNMMC assertions are contradicted by all FOIA case records, including the request itself, my FOIA appeal of that request at Enclosure (3), an extremely large body of emails, formal follow-ups, and multiple requests related to that matter (which must all be preserved in FOIA case files). My request for the critical low value of sodium states:

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium Na^+ that I am seeking that is stored in the computer – not from any other source.

It is concerning that in the email of March 12, 2013 WRNMMC omitted the full text of my request, including the last sentence highlighted above. Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer system as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files.

During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC was maintaining that laboratory computer system records did not exist and could not be produced. The WRNMMC email of March 12, 2015 suggests the same - reflecting no intent to acknowledge the existence of or to release the record - stating that: "This office has no further documents responsive to this request."

Third, the record released on March 3, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 has a print date of 16AUG2014. It is not clear why WRNMMC was not able to locate this record prior to that time, why it was not provided to or released by the FOIA Office until March 13, 2015 or why on March 12, 2013 WRNMMC was officially maintaining that no such record existed.

Fourth (and significantly) I am concerned about what I view as the continued misuse of the (b)(6) privacy exemption to withhold or redact information clearly not exempted and about redactions without any statutory basis. There are multiple instances of this, which may be addressed in the future.

The record released contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and directives. The fact that after more than two years, WRNMMC released a redacted record is concerning, suggesting that the redacted information may be related to the delayed release itself. I am aware of no exemption that would apply to the redaction labeled "NOT RESONSIVE TO REQUEST." This information is an integral part of the record being released, providing context that is required to be released under the FOIA.

Next, I am challenging the redaction: "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone, for example. Records identifying personnel who took official actions is not exempt. As a matter of principal and compliance, I am challenging that any of the redacted information is exempt and asking that all information not specifically exempt by the PA be released.

In closing, I offer a final thought for your consideration. It may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/PA reports.

I am interested in my FOIA/PA requests being properly addressed, for all records to be provided and for the FOIA/PA processes and appeals to work the way that they are supposed to. I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/PA matters can be resolved at the WRNMMC or DHA level.

I will greatly appreciate your prompt attention to this letter and timely reply.

Thank you in advance.

With my respect,

Robert Hammond

Copy to:

Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite (b) (6)

Falls Church, VA 22042-5101

Robert Hammond

(b) (6)

(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in
WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

- Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern
Daylight Time with attachments
(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern
Daylight Time
(3) Hammond FOIA Appeal of 20 July 2013
(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my **February 26, 2013** FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on **March 13, 2015** (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then

sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed.
[Intervening text omitted] **It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source.**"

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on **16AUG2014**. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until **March 13, 2015**.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6)

exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports.

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

(b) (6)

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office
Office of the Assistant Secretary of Defense Health Affairs
7700 Arlington Boulevard, Suite (b) (6)
Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office
Office of the Secretary of Defense, Administration
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Washington DC 20301 - 1950

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ogis@nara.gov,
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(b) (6)@mail.mil,
(b) (6)@navy.mil,
(b) (6)civ@mail.mil,
(b) (6)@mail.mil,
(b) (6)@mail.mil
osd.ncr.ocam.mxb.dcplo-
correspondence@mail.mil,
PrivacyMail@mail.mil

- Original request for the value stored in computer was submitted on February 26, 2013
- The request clearly states that computer records are sought, no other source
- On March 12, 2015 WRNMMC stated that no record for the value in computers exists
- Then, a redacted record was released on March 13, 2015 with this e-mail
- The record released shows a print date of 16 AUG 2014
- The WRNMMC redactions are not in line with the FOIA or the Privacy Act

From: (b) (6) @mail.mil
To: (b) (6) @aol.com

Sent: 3/13/2015 6:03:35 P.M. Eastern Daylight Time

Subj: FW: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Dear Mr. Hammond:

This responds to your Freedom of Information Act Request (below). Your request has been assigned case #15-15. Please refer to this number when inquiring about this case.

For your request you state: "I requested; "... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed." [WRNMMC omitted here: "... It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."]

With no malice or ill intent, we forwarded you your own information regarding the subject as we believed this was your request. We sent your request back to the Lab and are now forwarding to you the information (attached) and hope this will satisfy your need. There are 2 pages: Page 1 has information redacted that is not responsive to your request and additional information redacted under FOIA using exemption (b)(6). The information redacted using the (b)(6) exemption is personal/private information of individuals that would be an unwarranted invasion of personal privacy if release. FOIA allows for this redaction. Page 2 has no redactions and is released in full.

If you are dissatisfied with the above determination for any reason, you may file an appeal. Such an appeal should be addressed to:

Defense Health Agency - Office of the General Counsel
National Capitol Region Medical Directorate
Attention: Mr. Paul Cygnarowicz
8901 Wisconsin Ave (Building 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

Fees associated with the processing of your request, by this Command, have been waived. If you have any questions or require further assistance, you may contact me at (b) (6) or by email at (b) (6) @civ.mail.mil.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Sunday, March 01, 2015 6:56 AM

To: Davidge, JOSEPH E (Joe) JR CIV DHA NCR MEDICAL DIR (US) (b) (6) @health.mil;

Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)

LAB WORK ELEMENT: NNMC MAIN LAB, BETHESDA, MD [Print Date]
LRWE DEFAULT LAB METHOD: SODIUM (WRB-COBAS) 16AUG2014
LAB SECTION: CLINICAL CHEMISTRY

[WRNMMC redactions are improper]

NOT RESPONSIVE TO THE REQUEST

[REDACTED]

[REDACTED]

[REDACTED] (FTA215:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC) 090101
on 11/23/05 [REDACTED] (_NTY7855:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-BAYER) 103105
on 01/31/11 [REDACTED] (FTA4097:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-CLINK) 013111
on 09/06/12 [REDACTED] (FTA1096:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (WRB-COBAS)
24JUNE2012
on 08/16/14 [REDACTED] (FTA215:)

Last 4 lines
of
redaction
due to
(b)(6)
exemption
under the
FOIA

CPT CODE: 84295

-----Break

Lab Method: SODIUM (NNMC-CLINK) 013111

LRMETHOD --

CONT

Site/Specimen: SERUM

Sex: MALE/NO SEX

Select Age Group: (multiple)

	Upper Limit	Ref. Low	Ref. High	Panic Low	Panic
High					
ALL	999	136	145	120	160

- March 1, 2015 e-mails referenced below relate to SOPs vice a computer file
- FOIA request for the value in computers was submitted on February 26, 2013
- This March 12, 2015 e-mail states that no records exist
- Then the [redacted] record was released the next day; print date 16 AUG 2014

From: (b) (6) @mail.mil
To: (b) (6) @aol.com
CC: (b) (6) @mail.mil, (b) (6) @mail.mil, (b) (6) @health.mil
Sent: 3/12/2015 1:49:13 P.M. Eastern Daylight Time
Subj: RE: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Dear Mr. Hammond - This responds to your two emails sent on Sunday, March 1, 2014.

In your first request, you requested:

"... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed." [WRNMMC omitted here:... It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source.]

You are reminded that this office does not own responsive documents to FOIA requests. All documents received from other departments in response to FOIA requests are reviewed and appropriate information is forwarded to the requester. The final response letter dated June 11, 2013, was sent with no intent to "disingenuously referred to your [my] own laboratory values." The responsive documents we received were from your records on the dates you specified. Therefore, this office had no reason to believe that the department that responded, would send information "they knew was non-responsive to your [my] request for the critical low value of sodium." Further, referring you "to pages 301 through 310 in response to this portion of your request" shows clearly that the organization sent you many more pages and was trying to answer your request without delay. Another organization responding differently does not mean in any way that we were trying to withhold records. This office has no further documents responsive to this request.

Your Second request for "WRNMMC SOP Regarding the Critical Value for Sodium that Preceded WRNMMC SOP NO. ADMIN 1.17 Date Prepared: October 2011; subject Critical Communication" has been asked and answered within your appeal.

FOIA provides records and existing documents. FOIA is not a means to request new qualitative responses. Whether you agree with previous records provided, believe results were misinterpreted, or wish the records be changed to reflect a different result, are all matters that exceed the purpose of FOIA and the authority of FOIA personnel. We respond to requests for information. We do not alter or manipulate that information."

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Sunday, March 01, 2015 6:56 AM
To: Davidge, JOSEPH E (Joe) JR CIV DHA NCR MEDICAL DIR (US); (b) (6) @health.mil;
Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)
Subject: Fwd: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Robert Hammond

(b) (6)
(b) (6) @aol.com

July 20, 2013

Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Ave., SE, Suite 3000
Washington Navy Yard, DC 20374-5066

Subject: FOIA/Privacy Act Request Appeal

References: Freedom of Information Act Privacy Act, CFR 164.526

Dear Sir:

This letter is to appeal the Walter Reed National Military Medical Center's (WRNMMC) response of June 11, 2013 to my requests submitted under both the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C subsection 522a. WRNMMC must provide a reply that meets the requirements of both laws. For convenience, I have included the WRNMMC reply as Attachment A and have numbered the paragraphs for reference purposes. That reply indicates that some information was previously provided to me, so I also included WRNMMC's reply of May 14, 2013 as Attachment B. The reply at Attachment B was non-responsive for much of the same information. My personal medical information has been removed from Attachments A, B and subsequent attachments. I have also attached the relevant FOIA requests (with my medical information removed) for reference.

The basis for my appeal is that WRNMMC has not provided the information requested. Since a single FOIA request may deal with more than one item; since more than one was request was submitted for the same information due to non-response, and since the WRNMMC reply does not distinguish individual requests, I have broken the requests into categories.

Critical low sodium value. Please see my letter of **February 26, 2013** (Attachment C), which was followed by a request dated March 29, 2013 (Attachment D), because my initial request was not acknowledged). I requested the value for critically low sodium (NA+) in mEq/L stored in the computer that produces the laboratory printouts. There were follow-on emails with the FOIA Officer who clearly understood the request. Instead, WRNMMC responded in paragraph #8 by referencing my medical records, which do not show that value. I am seeking the single numeric value for serum sodium that would cause a result to be flagged as at or below the critically low level. WRNMMC laboratory reports show a "normal" reference range of 136 – 145. A value below that range would be flagged as "L" or low. If it were critically low, it would be flagged by an asterisk. It is the value that would trigger the asterisk for critically low that I am seeking, which is not shown in the WRNMMC reply referenced in paragraph #8. Attachment E shows an example of the non-responsive information provided by WRNMMC (with my personal lab values removed), along with a responsive reply provided by another hospital in eight business days. This demonstrates that the information I am requesting is readily available. WRNMMC may respond with a printout similar to that of the other hospital or may simply provide the value.

DD Forms 2870. Please see Attachments F and G dated **February 26, 2013** and March 29, 2013, which is a resubmission, because initial FOIA request was not acknowledged. They request copies of

Attachment C

Robert Hammond

(b) (6)

Original FOIA Request

February 26, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for NA+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment D

Robert Hammond

(b) (6)

- No response to February 26, 2013
- Second request submitted

March 29, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C. subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for NA+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

(b) (6)

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment E

Response Provided by Another Hospital

Site/Specimen:
SERUM

Units: mmol/L

Sex	Age Group	Upper Limit	Ref Low	Ref High	Panic Low	Panic High
MALE/NO SEX						
	NEWBORN to 7DAY	0.0192	133	146	126	159
	8 to 31DAYS	0.0849	134	144	126	159
	1 to 6 MONTHS	0.5832	134	142	126	159
	7MONTHS to 1YR	1.0000	133	142	126	159
	GREATER THAN 1Y	999.0000	137	145	126	159

A value of 126 mmol/L could be considered Panic on this scale.

- This is a response provided by another Military Treatment Facility from the same computer systems used by WRNMMC
- A copy was provided to WRNMMC and DON JAG on appeal
- WRNMMC and DON JAG stated that WRNMMC could not produce a similar record from WRNMMC computer systems
- There was no remand back to WRNMMC
- WRNMMC released a similar record on March 13, 2015 (two years later).

Response by WRNMMC. Does not show the value that is CRITICAL. Only the reference range for NA+ of 136-145 is shown.

- This is from page 131 of my medical records released by WRNMMC on June 11, 2013; different request
- It was included in the appeal to DON JAG to show that is is non-responsive to my request
- The critical value of sodium (NA+) would not be displayed on my record or any other person's record
- Only the normal reference range (136 - 145 mEq/L) is shown
- Values at or below the Critical value are denoted by *=Critical. The Critical value in mEq/L is not shown

→ NA+	.....	(136-145)	mEq/L
K	.....	(3.5-5.1)	mEq/L
CL-	.....	(98-109)	mEq/L
CO2	.....	(20-31)	mEq/L
GLUCOSE	.....	(74-106)	mg/dL
BUN	.....	(6-20)	mg/dL

L=Lo H=Hi *=Critical R=Resist S=Susc MS=Mod Susc I=Intermed

(131)

ATTACHMENT E

Robert Hammond

(b) (6)
(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in
WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

- Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern
Daylight Time with attachments
(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern
Daylight Time
(3) Hammond FOIA Appeal of 20 July 2013
(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my **February 26, 2013** FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on **March 13, 2015** (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then

sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. *[Intervening text omitted]* **It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source.**"

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on **16AUG2014**. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until **March 13, 2015**.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6)

exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports.

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

(b) (6)

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office
Office of the Assistant Secretary of Defense Health Affairs
7700 Arlington Boulevard, Suite (b) (6)
Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office
Office of the Secretary of Defense, Administration
1950 Defense Pentagon
Washington DC 20301 - 1950

OSD.FOIAPolicy@mail.mil,
(b) (6) @MED.NAVY.MIL
(b) (6) @navy.mil,
(b) (6) @MED.NAVY.MIL,
BUMED.FOIA@med.navy.mil,
(b) (6) @nara.gov,
(b) (6) @mail.mil,
(b) (6) @nara.gov,
christopher.a.julka@navy.mil,
ogis@nara.gov,
(b) (6) @mail.mil,
(b) (6) @tma.osd.mil,
(b) (6) @mail.mil
(b) (6) @mail.mil

DONFOIAPublicLiaison@navy.mil,
FOIARequests@tma.osd.mil,
(b) (6) @mail.mil,
(b) (6) @navy.mil,
donfoia-pa@navy.mil,
(b) (6) @mail.mil,
(b) (6) @navy.mil,
(b) (6) @mail.mil,
(b) (6) @mail.mil,
(b) (6) @mail.mil
osd.ncr.ocam.mxb.dcplo-
correspondence@mail.mil,
PrivacyMail@mail.mil

- Original request for the value stored in computer was submitted on February 26, 2013
- The request clearly states that computer records are sought, no other source
- On March 12, 2015 WRNMMC stated that no record for the value in computers exists
- Then, a redacted record was released on March 13, 2015 with this e-mail
- The record released shows a print date of 16 AUG 2014
- The WRNMMC redactions are not in line with the FOIA or the Privacy Act

From: (b) (6) @mail.mil
To: (b) (6) @aol.com
Sent: 3/13/2015 6:03:35 P.M. Eastern Daylight Time
Subj: FW: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Dear Mr. Hammond:

This responds to your Freedom of Information Act Request (below). Your request has been assigned case #15-15. Please refer to this number when inquiring about this case.

For your request you state: "I requested; "... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed." [WRNMMC omitted here: "... It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."]

With no malice or ill intent, we forwarded you your own information regarding the subject as we believed this was your request. We sent your request back to the Lab and are now forwarding to you the information (attached) and hope this will satisfy your need. There are 2 pages: Page 1 has information redacted that is not responsive to your request and additional information redacted under FOIA using exemption (b)(6). The information redacted using the (b)(6) exemption is personal/private information of individuals that would be an unwarranted invasion of personal privacy if release. FOIA allows for this redaction. Page 2 has no redactions and is released in full.

If you are dissatisfied with the above determination for any reason, you may file an appeal. Such an appeal should be addressed to:

Defense Health Agency - Office of the General Counsel
National Capitol Region Medical Directorate
Attention: Mr. Paul Cygnarowicz
8901 Wisconsin Ave (Building 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

Fees associated with the processing of your request, by this Command, have been waived. If you have any questions or require further assistance, you may contact me at (b) (6) or by email at (b) (6) @civ.mail.mil.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

-----Original Message-----

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Sent: Sunday, March 01, 2015 6:56 AM
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Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)

LAB WORK ELEMENT: [REDACTED] [Print Date]
LRWE DEFAULT LAB METHOD: SODIUM (WRB-COBAS) 16AUG2014
LAB SECTION: CLINICAL CHEMISTRY

[WRNMMC redactions are improper]

NOT RESPONSIVE TO THE REQUEST

[REDACTED]

[REDACTED]

[REDACTED] (FTA215:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC) 090101
on 11/23/05 [REDACTED] (_NTY7855:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-BAYER) 103105
on 01/31/11 [REDACTED] (FTA4097:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-CLINK) 013111
on 09/06/12 [REDACTED] (FTA1096:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (WRB-COBAS)
24JUNE2012
on 08/16/14 [REDACTED] (FTA215:)

Last 4 lines
of
redaction
due to
(b)(6)
exemption
under the
FOIA

CPT CODE: 84295

-----Break

Lab Method: SODIUM (NNMC-CLINK) 013111

LRMETHOD --

CONT

Site/Specimen: SERUM

Sex: MALE/NO SEX

Select Age Group: (multiple)

	Upper Limit	Ref. Low	Ref. High	Panic Low	Panic
High					
ALL	999	136	145	120	160

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Subj: RE: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

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Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)
Subject: Fwd: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Robert Hammond

(b) (6)
(b) (6) @aoi.com

July 20, 2013

Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Ave., SE, Suite 3000
Washington Navy Yard, DC 20374-5066

Subject: FOIA/Privacy Act Request Appeal

References: Freedom of Information Act Privacy Act, CFR 164.526

Dear Sir:

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Critical low sodium value. Please see my letter of **February 26, 2013** (Attachment C), which was followed by a request dated March 29, 2013 (Attachment D), because my initial request was not acknowledged). I requested the value for critically low sodium (NA+) in mEq/L stored in the computer that produces the laboratory printouts. There were follow-on emails with the FOIA Officer who clearly understood the request. Instead, WRNMMC responded in paragraph #8 by referencing my medical records, which do not show that value. I am seeking the single numeric value for serum sodium that would cause a result to be flagged as at or below the critically low level. WRNMMC laboratory reports show a "normal" reference range of 136 – 145. A value below that range would be flagged as "L" or low. If it were critically low, it would be flagged by an asterisk. It is the value that would trigger the asterisk for critically low that I am seeking, which is not shown in the WRNMMC reply referenced in paragraph #8. Attachment E shows an example of the non-responsive information provided by WRNMMC (with my personal lab values removed), along with a responsive reply provided by another hospital in eight business days. This demonstrates that the information I am requesting is readily available. WRNMMC may respond with a printout similar to that of the other hospital or may simply provide the value.

DD Forms 2870. Please see Attachments F and G dated **February 26, 2013** and March 29, 2013, which is a resubmission, because initial FOIA request was not acknowledged. They request copies of

Attachment C

Robert Hammond

(b) (6)

Original FOIA Request

February 26, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C. subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium Na^+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for Na^+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment D

Robert Hammond

(b) (6)

- No response to February 26, 2013
- Second request submitted

March 29, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C. subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for NA+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

(b) (6)

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment E

Response Provided by another Hospital

Site/Specimen:
SERUM

Units: mmol/L

Sex	Age Group	Upper Limit	Ref Low	Ref High	Panic Low	Panic High
MALE/NO SEX						
	NEWBORN to 7DAY	0.0192	133	146	126	159
	8 to 31 DAYS	0.0849	134	144	126	159
	1 to 6 MONTHS	0.5832	134	142	126	159
	7 MONTHS to 1YR	1.0000	133	142	126	159
	GREATER THAN 1Y	999.0000	137	145	126	159

A value of 126 mmol/L could be considered Panic on this scale.

- This is a response provided by another Military Treatment Facility from the same computer systems used by WRNMMC
- A copy was provided to WRNMMC and DON JAG on appeal
- WRNMMC and DON JAG stated that WRNMMC could not produce a similar record from WRNMMC computer systems
- There was no remand back to WRNMMC
- WRNMMC released a similar record on March 13, 2015 (two years later).

Response by WRNMMC. Does not show the value that is CRITICAL. Only the reference range for NA+ of 136-145 is shown.

- This is from page 131 of my medical records released by WRNMMC on June 11, 2013; different request
- It was included in the appeal to DON JAG to show that is is non-responsive to my request
- The critical value of sodium (NA+) would not be displayed on my record or any other person's record
- Only the normal reference range (136 - 145 mEq/L) is shown
- Values at or below the Critical value are denoted by *=Critical. The Critical value in mEq/L is not shown

→ NA+	.....	(136-145)	mEq/L
K	.....	(3.5-5.1)	mEq/L
CL-	.....	(98-109)	mEq/L
CO2	.....	(20-31)	mEq/L
GLUCOSE	.....	(74-106)	mg/dL
BUN	.....	(6-20)	mg/dL

L=Lo H=Hi *=Critical R=Resist S=Susc MS=Mod Susc I=Intermed

(131)

ATTACHMENT E

Enclosure (3), Page 7 of 7

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:26
To: **(b) (6)** CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3
Subject: FW: Your FOIA Requests to BUMED
Attachments: Hammond Response.pdf; dd2564 (Rev 7-13).pdf;
department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf
Signed By: **(b) (6)** @navy.mil

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: **(b) (6)** CTR OPNAV, DNS-36
Sent: Wednesday, January 07, 2015 2:23 PM
To: **(b) (6)** @aol.com
Cc: 'OSD.FOIAPolicy@mail.mil'; Garcia, Della ; Muck, Steve CIV SECNAV, DON CIO; **(b) (6)**
'BUMED.FOIA@med.navy.mil'; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov;
Julka, Christopher A CIV DON, CIO; 'ogis@nara.gov'; DON FOIA Public Liaison; 'FOIARRequests@tma.osd.mil';
'WRNMMC.PAO@health.mil'; Bizzell, Judy J CIV US WRNMMC **(b) (6)** @health.mil; Patterson, Robin L CIV
OPNAV, DNS-36; DONFOIA-PA
Subject: RE: Your FOIA Requests to BUMED

Sir,

Please find attached a formal letter in response to your concerns. Please feel free to contact me with any further questions or concerns.

V/r,

(b) (6)
SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support

(b) (6) @navy.mil

-----Original Message-----

From: (b) (6)@aol.com [mailto:(b) (6)@aol.com]
Sent: Saturday, January 03, 2015 6:14 AM
To: DONFOIA-PA; (b) (6) CTR OPNAV, DNS-36
Subject: Re: Your FOIA Requests to BUMED

Dear Mr. (b) (6)

Thank you for your email

Regarding my FOIA request for Walter Reed's FY 2012 Annual FOIA Report submission, it is a fully perfected request. I am simply asking that BUMED provide the responsive documents.

Regarding reporting, BUMED/Navy will have to sort that out. It is my understanding that upon receipt of a request, the Agency is required log the request into an accountable system of record, assign an Agency case tracking number, provide the requestor the case tracking number within ten days if the request will not be satisfied within twenty days along the web site where status may be tracked and report the request in their annual FOIA report submission. That didn't happen in this case. BUMED/Navy may wish to consider reviewing internal controls and training to prevent inadvertent error going forward.

I appreciate your valuable contribution as a support contractor. Please convey my thanks to the members of your office for your continuing support.

With my respect and appreciation.

Robert Hammond

In a message dated 12/3/2014 10:44:24 A.M. Eastern Standard Time, donfoia-pa@navy.mil writes:

Sir,

Upon review of the case history and coordination with BUMED, we believe that we may be able to address, and hopefully resolve, your concerns regarding the specific requests submitted to BUMED, as well as your larger concern with the FOIA Annual Report. In order to minimize confusion and avoid making this matter any more complicated than it has already become, we are requesting that we discuss this by telephone (with formal correspondence as a follow-up). Please contact me at the telephone number below at your earliest opportunity.

V/r,

(b) (6)
SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support

(b) (6)@navy.mil



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/15U105010

7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUESTS

This is in reference to a series of Freedom of Information Act (FOIA) requests submitted to Walter Reed National Military Medical Center (WRNMMC) and to the Bureau of Medicine and Surgery (BUMED). You have been in contact with these offices, as well as several offices along their respective chains of command, as well as an attempt to resolve this matter through mediation by the Office of Government Information Services (OGIS).

It is our understanding that your primary concern is the following: you submitted two (or more) FOIA requests to WRNMMC, which were (improperly) closed due to fee considerations. You appealed the response, and the ultimate result was that the fees were waived and your requests were processed. You are concerned not with the processing of those requests, but with the reporting of the disposition of the requests in the FOIA Annual Report. On this understanding, we are exclusively attempting to address your concern about the accuracy of the Annual Report.

Please be advised that the "raw data" you are seeking with regard to the Annual Report submissions, insofar as it addresses your direct concern, would be maintained solely by WRNMMC. Across DON, Annual Report Data is collected and compiled using DD FORM 2564. A blank copy of a DD FORM 2564 is attached. Please note that this form only tracks aggregate numbers, with no ability to infer the disposition of any specific request.

We contacted BUMED on this matter. BUMED advised that, due to unavoidable personnel management considerations, the BUMED FOIA office has been understaffed, which has delayed response to your multiple inquiries. We apologize for this delay. BUMED further advised that your requests had been directed to WRNMMC and that you were advised of this referral. Additionally, BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009.

With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

As an additional note, it is important to refer to the Department of Justice Office of Information Policy guidance regarding accurate completion of the Annual Report (copy attached). If your request was closed for a fee-related reason, appealed, remanded, and then processed to completion, it would be proper to report both the closure for the fee-related reason as well as the final disposition following remand ("For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests.")

In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6)@navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office